

HOUSE BILL No. 1304

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-44-4.

Synopsis: Diesel fuel inspection program. Requires the state department of health to establish an inspection program to enforce compliance with the quality and performance standards adopted by the American Society for Testing and Materials for petroleum diesel fuel, biodiesel, and blended biodiesel. Establishes the diesel fuel inspection fund. Imposes registration fees. Authorizes the state department of health to impose civil penalties for certain violations.

Effective: July 1, 2008.

Cherry, Grubb

January 15, 2008, read first time and referred to Committee on Environmental Affairs.

C
o
p
y



Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1304

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-44-4 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]:

4 **Chapter 4. Diesel Fuel Inspections**

5 **Sec. 1. To ensure uniformity in the quality of diesel fuel in**
6 **Indiana, this chapter establishes an inspection program to enforce**
7 **compliance with the quality and performance standards adopted**
8 **by the American Society for Testing and Materials for petroleum**
9 **diesel fuel, biodiesel, and blended biodiesel.**

10 **Sec. 2. As used in this chapter, "diesel fuel" refers to any of the**
11 **following:**

- 12 (1) **Petroleum diesel fuel.**
13 (2) **Biodiesel (as defined in IC 6-3.1-27-1).**
14 (3) **Blended biodiesel (as defined in IC 6-3.1-27-2).**

15 **Sec. 3. As used in this chapter, "diesel fuel outlet" means a**
16 **location in Indiana where diesel fuel is produced, sold at wholesale,**
17 **or sold at retail to the public.**



C
o
p
y

1 Sec. 4. As used in this chapter, "petroleum diesel fuel" means a
2 petroleum product that:

3 (1) is intended for use or offered for sale as a fuel for engines
4 in which the fuel is injected into the combustion chamber and
5 ignited by pressure without the presence of an electric spark;
6 and

7 (2) meets the American Society for Testing and Materials
8 D975-07b Standard Specification for Diesel Fuel Oils.

9 Sec. 5. The state department shall enforce and administer this
10 chapter.

11 Sec. 6. A diesel fuel outlet may not possess diesel fuel that does
12 not comply with the quality and performance standards adopted
13 by the American Society for Testing and Materials for petroleum
14 diesel fuel, biodiesel, or blended biodiesel, whichever is
15 appropriate.

16 Sec. 7. (a) The state department shall establish a diesel fuel
17 inspection program that provides for the:

18 (1) inspection; and

19 (2) analysis;

20 of the diesel fuel possessed by a diesel fuel outlet.

21 (b) The state department shall adopt rules under IC 4-22-2 to
22 use the test standards and tolerances for petroleum diesel fuel and
23 biodiesel set forth in the Annual Book of ASTM Standards and
24 Supplements.

25 (c) Until quality and performance standards for blended
26 biodiesel are adopted by the American Society for Testing and
27 Materials, the state department may inspect only the petroleum
28 diesel fuel and biodiesel possessed by a diesel fuel outlet.

29 Sec. 8. The state department shall adopt rules under IC 4-22-2
30 to implement this chapter.

31 Sec. 9. In establishing the inspection program under this
32 chapter, the state department shall collect samples of diesel fuel
33 from diesel fuel outlets on a random basis for testing and analysis.
34 The state department may do the following:

35 (1) Obtain access to diesel fuel outlets during normal business
36 hours for the following purposes:

37 (A) Examination.

38 (B) Inspection.

39 (C) Investigation.

40 (2) Issue a stop sale order for violation of this chapter or for
41 diesel fuel found not to comply with the standards required by
42 this chapter.

C
o
p
y



(3) Rescind a stop sale order issued under subdivision (2) if the diesel fuel is brought into full compliance with this chapter.

(4) Revoke, suspend, or refuse to issue the registration of a diesel fuel outlet that is not in full compliance with this chapter.

Sec. 10. (a) A person who produces or sells diesel fuel at a diesel fuel outlet shall do the following:

(1) Separately register each of the person's diesel fuel outlets with the state department.

(2) Pay a registration fee established by the rules of the state department adopted under section 11 of this chapter.

(b) The registration required under subsection (a) must include the following:

(1) The name and address of the principal place of business of the person registering the diesel fuel outlet.

(2) The name and address of the diesel fuel outlet.

(3) The name, brand, or trademark of the diesel fuel to be produced or sold at the diesel fuel outlet.

Sec. 11. The state department shall adopt rules under IC 4-22-2 to establish an annual registration fee for each diesel fuel outlet registered under this chapter.

Sec. 12. (a) The diesel fuel inspection fund is established for the purpose of facilitating compliance with and enforcement of this chapter. The state department shall administer the fund.

(b) The fund consists of:

(1) the fees paid under section 10 of this chapter; and

(2) any civil penalties deposited in the fund under section 16 of this chapter.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 13. A person violates this chapter if the person does any of the following:

(1) Possesses diesel fuel that does not comply with the quality and performance standards adopted by the American Society for Testing and Materials for petroleum diesel fuel, biodiesel,

**C
o
p
y**



and blended biodiesel, whichever is appropriate.

(2) Submits:

(A) incorrect;

(B) misleading; or

(C) false;

information regarding the registration of a diesel fuel outlet.

(3) Hinders or obstructs the state department in the enforcement of this chapter.

(4) Produces or markets diesel fuel that is not in compliance with this chapter.

(5) Produces or markets diesel fuel at a diesel fuel outlet that is not registered by the person under this chapter.

Sec. 14. A person who knowingly possesses petroleum diesel fuel, biodiesel, or blended biodiesel that does not comply with the quality and performance standards adopted by the American Society for Testing and Materials for petroleum diesel fuel, biodiesel, or blended biodiesel, whichever is appropriate, is subject to a civil penalty of ten thousand dollars (\$10,000) for each occurrence described in this section.

Sec. 15. (a) The state department shall adopt rules under IC 4-22-2 that establish a schedule of civil penalties that may be levied for the following:

(1) Violations of section 13(2) through 13(5) of this chapter.

(2) Violations of the rules of the state department.

(b) A penalty included in the schedule of civil penalties adopted under subsection (a) may not exceed five hundred dollars (\$500) per violation per day.

Sec. 16. The department shall deposit all civil penalties collected under this chapter in the diesel fuel inspection fund established by section 12 of this chapter.

C
o
p
y

